119

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17352-2024 (O/M)
Date of decision : 25.07.2024

Manjinder Singh ...... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Balbir Singh Jaswal, Advocate
for the petitioner.
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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition, filed by petitioner (Manjinder Singh son of Shri Gurdeep Singh), under Articles 226/227 of Constitution of India, is for setting aside the order dated 13.10.2020 (Annexure P-5), passed by learned Commissioner, Jalandhar Division, Jalandhar (respondent No. 2) and order dated 21.04.2023 (Annexure P-7), passed by learned Financial Commissioner, (Appeals), Punjab (respondent No. 1).

1.1 A further has been made for upholding order dated 21.06.2016 (Anenxure P-3), passed by learned SDM-cum-Collector, Amritsar-II.

2. Briefly, a Mutation No. 1576 came to be entered in the revenue record regarding succession to the estate of deceased Magar Singh. The said mutation was sanctioned on the basis of natural succession in favour of one Ajit Singh (respondent No. 3), Gurdeep Singh and Swaran Kaur, vide order dated 19.08.1980, passed by the concerned learned Assistant Collector 2nd Grade.

2.1 The present petitioner filed an application before learned SDM-cum-Collector, Amritsar-II, stating therein that one Shri Aroor Singh son of Maghar Singh was his paternal uncle (Taya) and he had executed a Will in favour of petitioner on 26.04.2005, but while sanctioning mutation No. 1576, the name of Aroor Singh was omitted. Accordingly, petitioner claimed that he is entitled to share of Aroor Singh on the basis of a Will and his (Aroor Singh's) name should also be mentioned in the aforesaid mutation No. 1576.

2.2 It appears that learned SDM-cum-Collector, Amritsar-II, passed an order dated 21.06.2016 (Annexure P-3), directing the concerned Halqa Patwari to enter the name of Aroor Singh in mutation No. 1576 and to further enter mutation on the basis of succession in the name of the petitioner.

2.3 Feeling aggrieved against the aforesaid order dated 21.06.2016 (Annexure P-3), Ajit Singh (respondent No. 3) preferred an appeal before the learned Commissioner, Jalandhar Division, Jalandhar, which came to be allowed, vide order dated 13.10.2020 (Annexure P-5), whereby the order dated 21.06.2016 (Annexure P-3), passed by the learned SDM-cum-Collector, Amritsar-II, was set aside and the order dated 19.08.1980, passed by the concerned learned Assistant Collector 2nd Grade, was upheld.

2.4 Being still dis-satisfied, the petitioner preferred revision petition before the learned Financial Commissioner (Appeals), Punjab, which came to be registered as ROR-434-2022; however, the said revision petition was also dismissed by the learned Financial Commissioner (Appeals), Punjab, vide its order dated 21.04.2023 (Annexure P-7).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court, for the relief(s), as noticed above.

4. Learned counsel for petitioner submits that learned Commissioner, Jalandhar Division, Jalandhar as well as learned Financial Commissioner (Appeals), Punjab, have wrongly passed the impugned orders without considering the fact that the petitioner had propounded a Will, executed by Aroor Singh, who was also one of the successor-in-interest of Magar Singh, therefore, the petitioner was entitled to share of Aroor Singh. It is further submitted that the learned SDM-cum-Collector, Amritsar-II had rightly passed the order dated 21.06.2016 (Annexure P-3), which has been wrongly set aside by the learned Commissioner, Jalandhar Division, Jalandhar, vide its order dated 13.10.2020 (Annexure P-5) and the said order (Annexure P-5) has been arbitrarily upheld by the learned Financial Commissioner (Appeals), Punjab, vide its order dated 21.04.2023 (Annexure P-7). Accordingly, it is submitted that the impugned orders be set aside and the matter be remanded to the concerned Assistant Collector for fresh decision.

5. I have heard learned counsel for the petitioner and have also perused the paper book with his able assistance.

6. In the instant case, the learned Financial Commissioner (Appeals), while dismissing the revision petition, filed by the petitioner, vide impugned order dated 21.04.2023 (Annexure P-7), has held as under :-

> *"4. I have considered the arguments put forth by counsel for the petitioner and also perused the orders of the lower Courts. The mutation in dispute was sanctioned on 19.08.1980 on the basis of natural succession. The mutation has been incorporated in the various Jamabandis and is out of purview of revenue authorities. It is settled law that entry in Jamabandis can be corrected only by Civil Court. As per Section 45*

of the Punjab Land Revenue Act, 1887, any person aggrieved by entry in the revenue record, he has to file Civil Suit, revenue authorities cannot make any correction in the revenue record. After more than 35 years, the petitioner filed an application for correction of mutation, which was allowed by SDM-cum-Collector, Amritsar-2 completely in violation of law. No explanation was given by the petitioner to file the application after 35 years. It is further found that the petitioner concealed the fact that he has lost his case u/s 372 of Indian Succession Act before the Court of Additional Civil Judge (Senior Division), Amritsar vide judgment dated 10.10.2014, which clearly shows that the petitioner has not approached this Court with clean hands."

7. A perusal of aforesaid observations made by learned Financial Commissioner (Appeals), Punjab would show that the petitioner had already approached the civil court claiming succession under Section 372 of Indian Succession Act, however, he lost the suit. It is further observed that the petitioner had concealed the said fact from the authorities.

8. Learned counsel for petitioner has failed to controvert the aforesaid observations.

9. In view of the above, since the petitioner has already lost before the civil court and has rather concealed the said material fact from the revenue authorities; in my considered view, the learned Commissioner, Jalandhar Division, Jalandhar as well as the learned Financial Commissioner (Appeals), Punjab were justified in passing the impugned orders dated 13.10.2020 and 21.04.2023 (Annexure P-5 and Annexure P-7, respectively), whereby the order dated 21.06.2016 (Annexure P-3), passed by learned SDM-cum-Collector, Amritsar-II, has been set aside and the order dated 19.08.1980,

passed by concerned learned Assistant Collector 2nd Grade has been upheld. There is no infirmity, illegality or perversity in the impugned orders.

10. Finding no merit in the instant civil writ petition, the same is accordingly, dismissed.

11. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

25.07.2024
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No